

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

KELLY LEE DURHAM,

Plaintiff,

v.

CIVIL ACTION NO. 2:10-cv-01246

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Pending is Plaintiff Kelly Lee Durham's motion for summary judgment [Docket 17]. By standing order entered September 2, 2010, and filed in this case on October 22, 2010, this case was referred to Magistrate Judge Mary E. Stanley for submission of Proposed Findings and a Recommendation ("PF&R") pursuant to 28 U.S.C. § 636. On March 21, 2011, Plaintiff filed her motion for summary judgment [Docket 17]. On April 20, 2011, Defendant, the Commissioner of the Social Security Administration, filed his brief supporting his final decision (Docket 19). On February 1, 2012, Judge Stanley filed her PF&R (Docket 20) recommending that the Court reverse the final decision of the Commissioner and remand the case to the Social Security Administration.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989);

United States v. Schronce, 727 F.2d 91, 94 (4th Cir.1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir.1982).

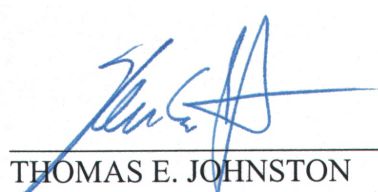
Objections to the PF&R were due February 20, 2012. Neither party filed any objections.

Accordingly, the Court **ADOPTS** the PF&R (Docket 20), **REVERSES** the final decision of the Commissioner, **REMANDS** this case to the Social Security Administration for further proceedings consistent with the PF&R, and **DISMISSES** this case from the Docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 12, 2012



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE